

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
NEVADA READY MIX CORPORATION, INC.) File No. 0002753324
)
Licensee of Station WRU657, Las Vegas, Nevada)

ORDER OF MODIFICATION

Adopted: May 21, 2009

Released: May 22, 2009

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* By this *Order of Modification*, we modify the license of Nevada Ready Mix Corporation, Inc. (Ready Mix) for 800 MHz Business/Industrial/Land Transportation Pool Station WRU657, Las Vegas, Nevada, by changing the radio service code from YJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Trunked) to GJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Conventional). As explained below, we take this action pursuant to an earlier order proposing to modify Ready Mix's license.¹

2. *Background.* In the 800 MHz band, conventional private land mobile radio systems are licensed on a shared basis, and licensees must monitor the channels for communications in progress in order to avoid causing harmful interference to communications by co-channel licensees.² Trunked stations are licensed on an exclusive basis, and licensees are not required to monitor prior to transmitting.³

3. Pappammal Kurian is the licensee of Station WNMR238, which is authorized to operate on frequency pair 811/856.3875 MHz using base stations at Henderson and Las Vegas, Nevada. Ready Mix's Station WRU657 is authorized to operate a base station on that and other channels at Sunrise Mountain, approximately twelve miles from each of Station WNMR238's Nevada base stations. Stations WRU657 and WNMR238 both were authorized to operate as conventional systems.

4. On October 4, 2006, however, the Commission granted Ready Mix's application to change the radio service code for Station WRU657 from GJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Conventional) to YJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Trunked).⁴ The application was coordinated by PCIA – The Wireless Infrastructure Association (PCIA).⁵ On March 17, 2008, Kurian requested that the Commission terminate Ready Mix's

¹ See Nevada Ready Mix Corporation, Inc., *Order on Reconsideration and Order Proposing Modification*, DA 09-850 (WTB MD rel. April 16, 2009) (*Order Proposing Modification*).

² See 47 C.F.R. § 90.403(e).

³ See, e.g., Amendment of Part 90 of the Commission's Rules to Permit Exclusive-Use Systems to Conduct Secondary Fixed Signaling and Alarm Operations without Conforming to the Provision of Section 90.235, *Report and Order*, PR Docket No. 91-322, 7 FCC Rcd 4754, 4755 n.11 (1992) ("Trunked non-SMR systems above 800 MHz have exclusive use of their assigned spectrum in their respective geographic areas.").

⁴ FCC File No. 0002753324 (filed September 15, 2006, amended September 29, 2006).

⁵ PCIA Frequency Coordination No. 20062480509.

authorization to use frequency pair 811/856.3875 MHz in its centralized trunked system.⁶

5. On March 21, 2008, the Wireless Telecommunications Bureau's Mobility Division (Division) directed PCIA to review its records, and demonstrate whether the coordination of Ready Mix's application was proper.⁷ The Division stated that it appeared that because Ready Mix did not have exclusive use of frequency pair 811/856.3875 MHz in the Las Vegas area, Ready Mix's application to modify the license for Station WRU657 to authorize trunked operations may have been coordinated in error.⁸ The Division therefore required PCIA to demonstrate that the coordination was in compliance with the Commission's rules and procedures or, if the coordination was defective, propose a resolution of the problem.⁹ The Division also stated that license modification under Section 316(a)(1) of the Communications Act of 1934, as amended (the Act), might provide the appropriate vehicle for resolving the matter if Ready Mix were unwilling to modify its license voluntarily.¹⁰

6. On April 17, 2008, PCIA responded to the Division, indicating that the coordination was defective because Station WRU657 did not have exclusive use of the frequency pair and the coordinator assumed incorrectly that the affected Station WNMR238 sites "were unprotected secondary sites and therefore not subject to the provisions for protection."¹¹ PCIA proposed that the matter be resolved by modifying the station class code for Station WRU657 to reflect conventional operation.¹² Consequently, we proposed to modify the license for Station WRU657, Las Vegas, Nevada by changing the radio service code from YJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Trunked) to GJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Conventional).¹³

7. *Discussion.* The *Order Proposing Modification* was released on April 16, 2009. Ready Mix did not protest the proposed modification of its license within the requisite thirty-day time frame.¹⁴ Accordingly, Ready Mix is deemed to have consented to the proposed modification. Based on the record before us, we conclude that it is in the public interest to modify Ready Mix's station license for 800 MHz Business/Industrial/Land Transportation Pool Station WRU657, Las Vegas, Nevada by changing the radio service code from YJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Trunked) to GJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Conventional).

⁶ See Opposition to Amendment of Call Sign WRU657, Request to Delete Frequency 856/811.3875 from Call Sign WRU657 and Initiate License Revocation Proceedings Against Nevada Ready Mix Corporation (filed March 17, 2008) (Request) at 3. On March 26, 2008, Ready Mix filed an opposition and a motion to dismiss the Request. See Nevada Ready Mix Corporation, Opposition and Motion to Dismiss (filed March 26, 2008).

⁷ See Letter dated March 21, 2008, from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, to Don Andrew, Personal Communications Industry Association.

⁸ See *id.* at 2.

⁹ See *id.*

¹⁰ See *id.*

¹¹ See Letter dated April 17, 2008, from Don Andrew, Director, Frequency Coordination Services, PCIA, to Stana Kimball, Wireless Telecommunications Bureau, at 1 (PCIA Letter). On May 5, 2008, Ready Mix filed comments to PCIA letter. See Letter dated May 5, 2008, from Nathaniel J. Hardy, Esq., Wood, Maines & Nolan, P.C., to Stana Kimball, Wireless Telecommunications Bureau. On May 15, 2008, the Commission received Kurian's response to Ready Mix's letter. See Letter dated May 8, 2008, from Pappammal Kurian to Stana Kimball, Wireless Telecommunications Bureau. Additional correspondence was received from Kurian on July 14 and August 20, 2008. See Letter from Pappammal Kurian to Secretary, FCC (received July 14, 2008); Letter dated August 10, 2008, from Pappammal Kurian to Secretary, FCC (received August 20, 2008).

¹² See PCIA Letter at 2.

¹³ See *Order Proposing Modification*, DA 09-850 at ¶ 13.

¹⁴ See 47 C.F.R. § 1.87(g)(1).

8. *Conclusion and Ordering Clauses.* Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the license of Nevada Ready Mix Corporation, Inc. for 800 MHz Business/Industrial/Land Transportation Pool Station WRU657, Las Vegas, Nevada, BE MODIFIED by changing the radio service code from YJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Trunked) to GJ (Business/Industrial/Land Transportation, 809-824/854-869 MHz, Conventional).

9. IT IS FURTHER ORDERED that this *Order of Modification* SHALL BE SENT by certified mail, return receipt requested, to: (1) Wood, Maines & Nolan, P.C., 4121 Wilson Blvd., Suite 101, Arlington, VA 22203-4143, Attn: Barry D. Wood, Esq. and Nathaniel J. Hardy, Esq.; (2) Nevada Ready Mix Corporation, 601 West Bonanza Road, Las Vegas, NV 89106, Attn: Ron Reed; and (3) Rebel Communications, LLC, 7265 S. Dean Martin Drive, #170, Las Vegas, NV 89118, Attn: Cody K. Whipple.

10. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATION COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau